

The opinion in support of the decision being entered today is
not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN SPINKS, and GLENN M. STEPHENS

Appeal 2007-1084
Application 09/764,543
Technology Center 2100

Decided: July 24, 2007

Before JAMES D. THOMAS, HOWARD B. BLANKENSHIP,
and JAY P. LUCAS, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal involves claims 1 through 27. We have jurisdiction under
35 U.S.C. §§ 6(b) and 134(a).

Representative independent claim 1 is reproduced below:

1. An apparatus for physical detection and tracking of devices on a
computer network, the apparatus comprising:

a processor, for executing executable data structures;

a memory device operably connected to the processor for storing the executable data structure and associated operational data structures, the executable and operational data structures comprising:

a reporting module configured to query a network infrastructure device and obtain end point connection information corresponding to a first network device; and

a correlation module configured to associate the end point connection information corresponding to the first network device to a location identifier corresponding to a physical location.

The following reference is relied upon by the Examiner:

Nakamura	US 6,721,818 B1	Apr. 13, 2004
		(Filed Aug. 24, 1999)

All claims on appeal, claims 1 through 27, stand rejected 35 U.S.C. § 102(e) as being anticipated by Nakamura.

Rather than repeat the positions of the Appellants and Examiner, reference is made to the Brief and Reply Brief for Appellants' positions, and to the Answer for the Examiner's positions.

OPINION

For the reasons set forth by the Examiner in the Answer, as expanded upon here, we sustain the rejection of all claims on appeal under 35 U.S.C. § 102(e).

With respect to the arguments set forth beginning at page 4 of the principal Brief on appeal, we consider independent claim 1 as representative of the arguments presented here generally referring collectively to claims 1, 7, 10, 16, and 19 through 27 (Brief, top page 4). This grouping of claims includes independent claims 1, 10, and 19, each of which recites the disputed reporting and correlation modules. Because we agree with the Examiner's responsive views expressed at page 8 of the Answer with respect to the positions that begin at page 4 of the principal Brief on appeal, we reproduce them here:

With regard to claims 1, 7, 10, 16, and 19-27, Appellants argue on page 4, item 1 in the appeal brief, that Nakamura does not disclose a reporting module configured to query a network infrastructure device. Appellants argue that the dictionary definition of 'infrastructure' is 'the underlying foundation or basic framework', and in using such a definition, Appellant's 'network infrastructure device' is a device that forms the underlying foundation or basic framework of a network. Examiner notes the original definition relied upon by Appellants concerning a 'network infrastructure device', (see Appellants disclosure of the invention, page 13, lines 15-16).

In this passage Appellants define a network infrastructure device as '**any intelligent network device including without limitation** a switch, a router, a hub, or the like.' While the Appellant states that switches, routers, hubs, and the like may be considered network infrastructure devices, nowhere is it indicated in the claims, or in the Appellants disclosure that network infrastructure devices are limited to devices such as switches, routers, hubs, and the like. Instead, such devices are merely included in the Appellants definition

of a network infrastructure device, which Appellant broadly defines as ‘any intelligent network device’.

Appellants’ reference at Specification page 13, as noted by the Examiner, includes and is consistent with the discussion at Specification page 1, lines 23 through 25 in a corresponding manner as describing the nature of the prior art. We agree with the Examiner’s emphases upon the characterization as being descriptive of “any” intelligent network device and further modifying it with the language “without limitation”. Appellants also characterize infrastructure devices being any of the listed items as well as “or the like.”

Contrary to the views expressed in the principal Brief on appeal, all this amounts to an expansive definition of network infrastructure devices rather than a narrow definition of the term which Appellants appear to rely upon for patentability. Correspondingly, we further agree with the Examiner’s views expressed at page 9 of the Answer which we reproduce here:

Nevertheless, if Examiner is to utilize the dictionary definition of the term “infrastructure” submitted by Appellants, Examiner submits Nakamura further teaches such devices. Nakamura teaches outlets (101) as infrastructure devices, (col. 17, lines 33-35). These devices form the underlying foundation or basic framework of the network disclosed by Nakamura. The outlets taught by Nakamura are like switches, routers, and hubs since they relay data transmitted by devices located throughout the network, (col. 4, lines 24-35). Henceforth, it is clear Nakamura teaches a reporting module configured to query a network infrastructure device as claimed by the Appellant, (col. 2, lines 44-46, and col. 18, lines 39-45).

Based upon Nakamura's extensive discussion and showing beginning at figure 2 associated with the IEEE 1394 protocols for interconnection of the devices of Nakamura's figure 1, we agree with the Examiner's characterization that the outlets 101 of this reference may be fairly characterized as being intelligent and truly to form the "underlying foundation or basic framework of a network" as argued in the paragraph bridging pages 4 and 5 of the principal Brief on appeal. Outlets 101 in Nakamura appear to be infrastructure nodal devices that communicate with other outlets 101 by means of the previously mention IEEE 1394 protocol.

Moreover, the network devices, that are only broadly referred to in the claims on appeal, comprise "in station devices, such as personal computers ("PCs"), servers, printers, scanners, fax machines and the like" that are defined in this manner as part of the prior art at Specification pages 25 and 26. Corresponding elements are shown in Nakamura's home network figure 1.

Further, Nakamura's PC 112 in figure 1 is depicted in figure 28 as comprising a node which connects to other nodal devices as illustrated. The function of this PC is a management type function characterized beginning at the bottom of column 4, and as further characterized as a management functional device at column 16 through at least half of column 17 and the bottom of column 20. The artisan would consider such a PC 112 as representative of other devices that may be characterized as included within the home network shown in figure 1 of Nakamura. Additionally, this PC,

because of the nature of its management functions, may be aptly characterized as a network infrastructure device as claimed.

The corresponding arguments as to this feature at pages 4 and 5 of the Reply Brief are equally unpersuasive of patentability.

The Examiner addresses the argued absence of the claimed correlation module beginning at the bottom of page 9 of the Answer. We agree with this correlation. In addition to the Examiner's relied-upon discussion of PC 112 beginning at the bottom of column 16 through the middle of column 17, it is noted that the configuration memories discussed there are with respect to all nodes and all devices connected to the respective outlets as shown in figure 23. The discussion beginning at column 19, line 3 as relied upon by the Examiner, indicates that each node may furnish its location to another node and that the nodes actively communicate with each other. The addressability and locatability of the respective nodes and devices are also illustrated beginning at figure 24 of Nakamura through figure 32. A topology map is prepared according to the flow chart function in figure 29, element S2902. Figure 31 shows a broadly defined association, to the extent argued not to be present in Nakamura, of the nodes and their identification with respect to the basic functional elements and a room index and the respective details of the nature of the devices actually located there. This room index is displayed in figure 32 and is consistent with the home network architecture broadly shown in figure 1.

Thus, it is readily apparent to us and to the artisan that Nakamura does associate information location identifiers corresponding to physical locations. The room index of Nakamura clearly identifies the room and

therefore the location of any respective nodes 1, 2, 3, etc. characterized as A1, A2, B2, C1, D3, etc. The corresponding arguments beginning at page 2 of the Reply Brief are also unpersuasive of patentability.

Lastly, Appellants make reference to certain pairs of dependent claims beginning at the bottom of page 9 of the principal Brief on appeal. In addition to the Examiner's correlations of specific features of Nakamura to these dependent claims beginning at page 5 of the Answer, the bottom of page 10 of the responsive arguments portion of the Answer addresses each of these correlations in a more expansive manner and directly meets the assertions made that the teachings of the respective dependent claims so argued are not taught in Nakamura. Since there are no additional arguments in the Reply Brief contesting the Examiner's additional correlations beginning at page 10 of the Answer as to these dependent claims, we affirm the rejection of them as well.

In view of the foregoing, the decision of the Examiner rejecting claims 1 through 27, all claims on appeal, under 35 U.S.C. § 102 is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. §1.136(a). See 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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